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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

CAPANA SWISS ADVISORS AG, a Swiss corporation; AMERIMARK AUTOMOTIVE AG, a Swiss corporation,

Plaintiffs,

vs.

RYMARK, INC., a Utah corporation; NICHOLAS THAYNE MARKOSIAN, an individual; JOHN KIRKLAND, an individual; and VICKY SMALL, an individual,

Defendants.

RYMARK, INC., a Utah corporation; and NICHOLAS THAYNE MARKOSIAN, an individual,

Counter Claimants,

vs.

CAPANA SWISS ADVISORS AG, a Swiss corporation, and Amerimark Automotive AG, a Swiss Corporation,

Counter Defendants.

**DECLARATION OF STEPHEN
RICHARDS IN SUPPORT OF
DEFENDANTS' AND THIRD-PARTY
PLAINTIFFS' OPPOSITION TO
THIRD-PARTY DEFENDANT MIRON
LESHEM'S MOTION TO DISMISS**

Case No.: 2:23-cv-00467

Judge: Ted Stewart
Magistrate Judge: Cecilia M. Romero

RYMARK, INC., a Utah corporation; and
NICHOLAS THAYNE MARKOSIAN, an
individual,

Third-Party Plaintiffs,

vs.

SHAEN BERNHARDT, an individual;
ASHLEY MIRON LESHEM, an individual;
DAVID HESTERMAN, an individual;
NICOLAI COLSHORN, an individual;
STEFAN KAMMERLANDER, an individual;
ALEXANDER COENEN, an individual;
MARTIN FASSER HEEG, an individual;
AMERIMARK GROUP AG, a Swiss
corporation; and PHILOMAXCAP AG, a
German corporation,

Third-Party Defendants.

I, Stephen Richards, declare as follows:

1. I am over 18 years of age and am fully competent to make this declaration. I am counsel to Defendants and Third-Party Plaintiffs Rymark, Inc. (“**Rymark**”) and Nicholas Markosian. I have personal knowledge of the matters set forth below or have obtained knowledge from my review of the file. I make this declaration in support of Rymark and Mr. Markosian’s opposition (the “**Opposition**”) to the motion to dismiss, Dkt. 252 (the “**Motion**”) filed by Third-Party Defendant Miron Leshem.

2. Attached as **Exhibit A** hereto is a true and correct copy of a March 22, 1999 consent order between Miron Leshem and the United States Securities and Exchange Commission (the “**SEC**”). The consent order is available on the SEC’s website at sec.gov/files/litigation/admin/34-41197.txt.

3. Attached as **Exhibit B** hereto is a true and correct copy of a February 6, 2006 civil complaint filed by the SEC against Leshem in the matter captioned *Securities and Exchange Commission v. Shrewder et al.*, No. 06-80126-CIV-RYSKAMP/VITUNAC (S.D. Fla.). And attached as **Exhibit C** hereto is a true and correct copy of a final judgment as to Leshem in the same matter, dated January 12, 2007.

4. Attached as **Exhibit D** hereto is a machine translation of true and correct copy of a “Decision of the Enforcement Committee of January 24, 2024 with regard to Grantchester Equity Limited, Mr. Miron Leshem, Mr. Dirck Van Wylick, Mrs. Aude Planche, Mr. Christian Person, Mr. Leon Lucide and Mr. Serge Goldner,” issued by the French securities authority, the Autorite des Marches Financiers (“AMF”). A copy of the decision in the original French can be found on the AMF’s website at https://www.amf-france.org/sites/institutionnel/files/private/2024-01/san-2024-02_1.pdf.

5. Attached as **Exhibit E** hereto is a true and correct copy of an email sent by David Hesterman to Nicholas Markosian and Miron Leshem on December 3, 2015.

6. Attached as **Exhibit F** hereto is a true and correct copy of an email sent by Miron Leshem to Nicholas Markosian on December 15, 2015.

7. Attached as **Exhibit G** hereto is a true and correct copy of a document titled “Information Document.” The document was produced by Plaintiffs in this litigation and Bates-stamped PL-0000008610-8700. The Information Document was used by Miron Leshem and others to facilitate the listing of AmeriMark Group on the Vienna Stock Exchange. (See, e.g., Dkt. 16 ¶¶ 65, 191; Dkt. 125 at 5.)

8. Attached as **Exhibit H** is a true and correct copy of another document used to

facilitate the Vienna listing: a German-language company analysis produced by Capital Lounge GmbH but containing much of the same information as the Information Document, Exhibit G. Plaintiffs produced this document at PL_0000007805-7833.

9. Attached as **Exhibit I** hereto is a true and correct copy of a press release published by AmeriMark Group on July 9, 2020, and available online at <https://www.pressetext.com/news/na-20200709035.html>. In January 27, 2025 discovery responses, a true and correct copy of relevant excerpts of which are attached hereto as **Exhibit J**, Plaintiff AmeriMark Automotive has identified Miron Leshem as the drafter of this press release. (Ex. J. at 10.)

10. Attached as **Exhibit K** hereto is a machine translation of a true and correct copy of a press release published by AmeriMark Group on May 11, 2021, and available online at https://www.eqs-news.com/news/corporate/amerimark-group-ag-meldet-rekordergebnisse-2020-bei-operativer-tochtergesellschaft/3ea8906e-3d77-4988-b0e1-6e4a0c695cc1_de. Plaintiff AmeriMark Automotive has identified Miron Leshem as the drafter of this press release. (Ex. J at 10.)

11. Attached as **Exhibits L, M, and N** hereto, respectively, are true and correct copies of three documents produced by Third-Party David Hesterman in discovery. Exhibit L, which was produced at HESTERMAN0000749, is a June 6, 2017 letter from Leshem's company, Grantchester Equity, to Burke Roney, a principal of Strawberry Highlands, LLC, the address of which is noted on the letter as being in Heber City, Utah. Leshem signed the letter. Exhibit M, produced at HESTERMAN0000750, is a listing proposal from Grantchester Equity to Strawberry Highlands; the proposal proposes a listing on a French stock exchange. Exhibit N, produced at

HESTERMAN0000748, is a July 26, 2017 email from David Hesterman to Miron Leshem, to which Exhibits L and M were attached.

12. Attached as **Exhibit O** hereto are relevant excerpts from the deposition testimony of Plaintiff AmeriMark Automotive AG.

I declare the foregoing to be true and correct under penalty of perjury.

Executed on March 27, 2025, in Salt Lake City, Utah.

By: */s/Stephen Richards*
Stephen Richards

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of March 2025, I filed the foregoing **DECLARATION OF STEPHEN RICHARDS IN SUPPORT OF DEFENDANTS' AND THIRD-PARTY PLAINTIFFS' OPPOSITION TO THIRD-PARTY DEFENDANT MIRON LESHEM'S MOTION TO DISMISS** via the Court's CM/ECF system, which provided notice of such filing to all counsel of records.

/s/Chad S. Pehrson